HON'BLE MR. JUSTICE BILAL NAZKI,

ACTING CHIEF JUSTICE

AND

HON'BLE MR. JUSTICE R. SUBHASH REDDY

W.A.NO. 1744 OF 2005

Date of disposal: 11.11.2005

Between:

Chandrakanth H. Shah and others

…Appellants

And

Revenue Divisional Officer (Land Reforms Tribunal), Kurnool & others

…Respondents

HON'BLE MR. JUSTICE BILAL NAZKI, ACTING CHIEF JUSTICE

AND

HON'BLE MR. JUSTICE R. SUBHASH REDDY

W.A.NO. 1744 OF 2005

JUDGMENT: (Per Hon'ble Mr. Justice Bilal Nazki, ACJ)

This is a classic case of how a person with some reasonable means can defeat the operation of law, particularly, which is meant for transformation of the society. Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short "the Act") came into

operation in 1973. Admittedly the appellants are the excess landholders, but for more than 30 years the Government is not able to take the excess land from them and distribute it amongst the landless poor. They filed declarations under Section 8 of the Act, a notice was issued in Form No. 5 and the matter was finally heard on 27.11.1976. The appellants raised their objections, but the Tribunal passed an order on 30.11.1976 holding that each of the appellants held land equivalent to 0.2669 in excess of the ceiling limit. Thereafter the manipulations of the appellants started and they filed one proceedings after other. In the first instance, they filed a petition before the Land Reforms Tribunal at Kurnool for deletion of certain lands from their holding in view of the fact that the Government had issued a notification under Section 4 (1) of the Land Acquisition Act. The Tribunal, by orders dt. 30.11.1976 and 15.1.1977, ordered deletion of those lands which were covered by the notification under Section 4 (1) of the Land Acquisition Act from the holdings of the appellants. Special Tahsildar, Land Reforms, Kurnool challenged the orders of the Land Reforms Tribunal by filing appeals before the Land Reforms Appellate Tribunal, Kurnool. The appeals were allowed on 8.11.1977 and the excess holding of each of the declarants came to be determined as 0.3788 standard holding. The appellants carried the matter in two revisions. Both the revisions were dismissed on 9.6.1978. Then applications were filed before the Land Reforms Tribunal, Kurnool seeking for re-computation of certain single crop wet lands as dry lands. These applications were also dismissed. The appellants did not leave it at that, they carried the matter in appeal before the Land Reforms Appellate Tribunal, Kurnool. The appeal was dismissed on 15.7.1980. Again this order was challenged before the Land Reforms Appellate Tribunal by way of revisions which also met the fate of dismissal on 13.9.1982. In the meantime, the appellants had submitted a statement on 29.12.1978 proposing certain lands for surrender, the details have been given by the learned single Judge also in his judgment. The total land that was to be surrendered was Ac.75-60 cents. The Tribunal accepted the surrendered land as early as on 10.2.1979 and issued notice in Form

No. 8 inviting objections from the public at large. The Tribunal approved the surrender by order dt. 20.7.1979 under Section 10 (3) of the Act. The Tribunal issued orders in Form No. 9 directing the authorized officer to take possession of the lands surrendered. The authorized officer took possession of the land on 27.8.1980 as per the records, but, as a matter of fact, the lands were not taken possession of till date. The lands detailed in Form No. 10 certificate for taking possession have also been mentioned by the learned single Judge in his judgment which mentions the total land of Ac.75-69 cents. After loosing successive petitions before different courts, the writ petition was filed in the year 2002 seeking a direction that the respondents should not act upon their surrender of land and they should agree to the request of the appellants for substitution of the land which request they made on 8.4.2002. The land was surrendered on 29.12.1978. They wanted change of the surrender of land after 24 years and then they came to this Court that the respondents should be directed to accept their request.

The learned single Judge went through the whole pleadings and held that the Mandal Revenue Officer had issued a memo on 2.9.2002 to the Mandal Revenue Inspector to take possession of the lands surrendered by the appellants on 29.12.1978. Although there was no stay from any Court or authority from 1980 and authorized officer had been asked to take possession on 27.8.1980 after the surrender was approved on 20.7.1979, but the appellants managed even without an order not to surrender the land for a period of more than 24 years and when ultimately the Government came out of the slumber and issued a notice on 2.9.2002. The appellants again came to the Court. Certain explanations were given by the respondents that they did not know that the matter had been finally decided by the High Court and the proceedings were pending, but it makes a sad story that the Government did not want to act and did not act. We have not been shown by the appellants any provision of law whereby after 24 years the substitution of land could be ordered. We have also not been shown by the advocates appearing for the appellants that

the appellants have any right, whatsoever, to claim substitution of the land. The only argument made by the learned counsel appearing for the appellants is that although there was no stay for number of years, the respondents failed to take possession of the land and in the meantime, they have improved the land. The appellants all along knew that they have surrendered the land and if they have made improvements on the land, it would be at their own risk and as a matter of fact, they themselves were supposed to surrender the land as the orders regarding the surrender had become final, and because the officers of the Government committed follies, no benefits could accrue to the appellants.

When the matter came before the Court on last occasion, we asked the learned Government Pleader to give us the present status report. He has filed a detailed counter in which he stated that most of the land was taken possession of on 5.11.2005 and the land has been distributed amongst 55 landless poor, each of the beneficiaries has been allotted one acre of land, only a piece of land to an extent of Ac.1-45 cents has not been taken possession of so far as the appellants have established a rice mill over it and it will take some time to take possession of such land.

The learned counsel appearing for one of the appellants submits that about 12 acres of land have standing crops and the possession of the lands could not be taken by the respondents in terms of the proviso to Rule 8 (4) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974. The learned Government Pleader appearing for the respondents, however, submits that the land was inspected in the month of July, 2005 and there were no crops and he was not sure as to whether there were any crops as on today. In the interest of justice, we order that if the appellants were in possession of the land on 5.11.2005 which had standing crops, the possession of that land may be allowed to be continued by the appellants till a specific date when the crop is harvested. This shall be done by the Mandal Revenue Officer concerned who shall personally visit the spot and if there are

standing crops, he shall take an undertaking from the appellants that they shall vacate the land by a specific date, and if such an undertaking is not given, irrespective of the standing crops, the Mandal Revenue Officer shall be at liberty to hand over the possession of land to persons to whom it has been allotted, otherwise the possession shall be handed over to the allotted persons on the date the appellants vacate the land in pursuance of the undertaking. The respondents shall also take immediate steps to take possession of the land which is still in possession of the appellants. With these observations, the writ appeal is dismissed. No costs.

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11.11.2005